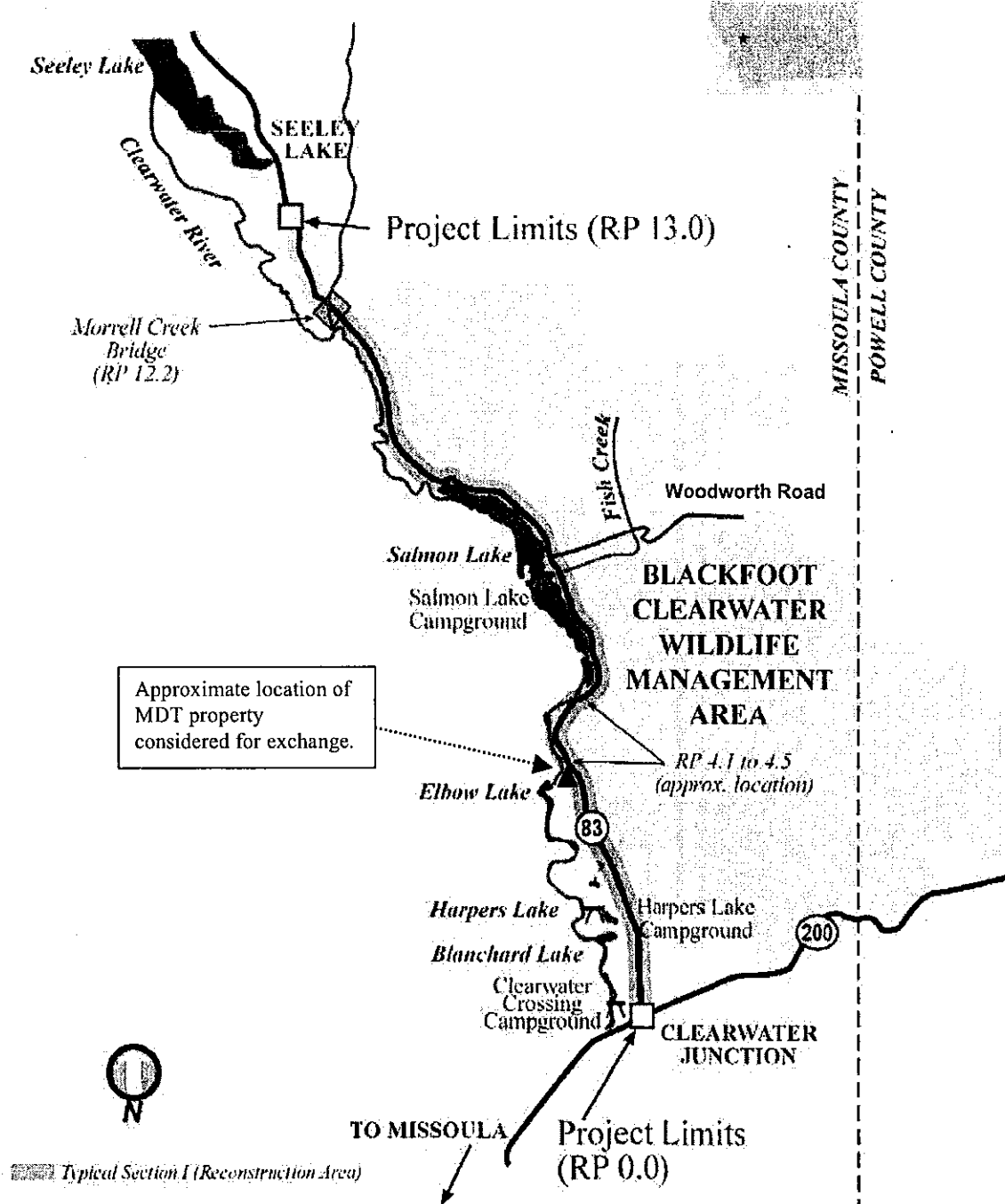


**Blackfoot Clearwater Hwy 83 Land Exchange  
FACT SHEET  
December 2009**

Montana Dept. of Transportation (MDOT) intends to rebuild a stretch of Hwy 83 from its junction with Hwy 200 to Seeley Lake. Adjusting the alignment of a dangerous portion of Highway 83 between MM 4.1 and 4.5 would require as much as 19-acres of additional right-of-way. In addition to the approximately 19-acres the highway impacts extend beyond the direct footprint of the highway and its right of way take. Besides direct habitat loss, there is also habitat fragmentation, displacement, and direct mortality due to Wildlife Vehicle Collisions's (WVC's) within the Blackfoot Clearwater Wildlife Management Area (BCWMA).

A 52-acre tract of private land directly adjacent to the proposed realignment is currently for sale on the open market. This parcel is high-quality native rough-fescue winter range, includes 1800 feet of Clearwater River frontage on the most permeable reach of the river between Salmon Lake and Clearwater Junction, and is within a critical corridor between the BCWMA and ungulate summer ranges in Blanchard and Belmont Creeks. There are no zoning or statutory land use restrictions in place; residential development of this parcel would significantly impact wildlife movement to and from the BCWMA and would destroy critical habitat associated with this highly valued Wildlife Management Area. MDOT proposes to purchase and transfer fee-title of this parcel to FWP as required mitigation for the 19-acre taking and the associated impacts to the wildlife and wildlife habitat.

<b>PARTIES</b>	<input type="checkbox"/> <b>Montana Department of Transportation Montana Fish, Wildlife, &amp; Parks</b>
<b>PROPERTY RIGHT TO BE TRANSFERRED:</b>	<input type="checkbox"/> <b>Fee Simple</b>
<b>PROPERTY DATA:</b>	<input type="checkbox"/> <b>FWP land located in Missoula County, MT</b> < <b>Up to 19-acres, T15N, R14W.</b> < <b>MDT land located in Missoula County, MT</b> < <b>53-acres, T15N, R14W</b>
<b>VALUES:</b>	<input type="checkbox"/> <b>FWP land plus impacts \$1,496,026</b> <b>MDT land \$1,608,300</b>
<b>DIFFERENCE</b>	<input type="checkbox"/> <b>The difference in value of \$112,274 will be banked for future MDT projects within this area.</b>
<b>PROCESS:</b>	<input type="checkbox"/> <b>Draft Environmental Assessment distributed; End of 30-day Public Comment Period 11/19/09; Decision Notice issued 11/23/09; FWP Commission Approval – Pending.</b>





Hwy realignment  
segment

This is an aerial photograph of a landscape, likely a wetland or undeveloped area. A dashed white line runs diagonally from the top left towards the bottom right, representing a proposed highway realignment. A specific section of this line is highlighted with a solid white line. To the left of this highlighted section, there is an irregularly shaped area outlined in white, representing a potential acquisition. Two white leader lines point from text labels to these features: one points to the highlighted highway segment, and the other points to the irregular acquisition area.

Potential 52 ac.  
FWP acquisition

## ***FWP COMMISSION AGENDA ITEM COVER SHEET***

**Meeting Date:** December 10, 2009

**Agenda Item:** MT Highway 83 Right-of-Way Conveyance on the Blackfoot-Clearwater WMA

**Division:** Wildlife

**Action Needed:** Approval of Final Rule/Action

**Time Needed on Agenda for this Presentation:** 10 minutes

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### **Background**

FWP proposes to exchange 19 acres on the Blackfoot-Clearwater Wildlife Management Area along State Highway 83 in Missoula County to Montana Department of Transportation for a 53-acre parcel nearby plus \$112,274 credit. This exchange is necessary for MDT's project to widen and realign Highway 83 between Clearwater Junction and Seeley Lake. If implemented, this action would be in lieu of monetary payment from MDT to FWP for right-of-way acquisition across the WMA.

The value of the land MDT is impacting is \$112,274 less than that it is providing FWP as mitigation. The two agencies have agreed that MDT can use the excess value amount as bank/credit allowance for future MDT impacts on FWP lands. The bank/credit allowance will be limited to FWP Region 2 Wildlife Bureau lands that are not federally encumbered.

MDT plans to relocate the highway centerline as much as 25 feet to realign curves, improve line-of-sight distances, and provide sufficient road widths for bicycle traffic on the shoulders of the highway. Realignment would affect the WMA at eight specific points, comprising the 19 acres proposed for conveyance to MDT. The site is critical winter range for white-tailed deer, and lies in a migration corridor for many of the area's 1,200 elk.

The 53-acre parcel, which was previously marketed by a private party as a potential for subdivision, is contiguous with the WMA and lies directly southwest of mile marker 4. This parcel consists of native fescue prairie and ponderosa pine parkland--high quality winter range for deer and elk. It includes 1,800 feet of Clearwater River frontage at the point most migrating elk and deer use to travel between summer ranges and the BCWMA.

### **Public Involvement and Process Results**

A draft environmental assessment, management plan, and socioeconomic assessment were made available for public review Nov. 4-19, 2009, with a public meeting held in Seeley Lake Nov. 9. Public comment was light and supportive. No comments in opposition were received.

### **Alternatives and Analysis**

If no action were taken, MDT may redesign its plans for the highway corridor or may invoke their power of condemnation for matters of ensuring public safety. If the 19 acres were condemned, FWP would only have the option of receiving monetary compensation instead of replacement land. The 53-acre parcel would likely sell on the open market for residential use, resulting in a serious loss of habitat and impede wildlife movement to and from the WMA.

### **Agency Recommendation and Rationale**

FWP recommends approval by the FWP Commission to proceed with disposing of 19 acres on the BCWMA to MDT, and adding 53 acres of like function for wildlife in exchange.

### **Proposed Motion**

Approve the FWP's recommendation to acquire 53 acres adjacent to the Blackfoot Clearwater WMA in exchange for 19 acres needed by MDT for Highway 83.



## **Montana Fish, Wildlife & Parks**

### **DECISION NOTICE for Mitigation Plan for MT Highway 83 Right-of-Way Conveyance on the Blackfoot-Clearwater Wildlife Management Area**

**Montana Fish, Wildlife & Parks  
Region 2  
3201 Spurgin Road, Missoula MT 59804  
(406) 542-5500**

#### **DESCRIPTION OF PROPOSED PROJECT**

Montana Fish, Wildlife, and Parks (FWP) proposes to exchange up to 19 acres on the Blackfoot-Clearwater Wildlife Management Area (BCWMA) along the corridor of Montana Highway 83 to Montana Department of Transportation (MDT) for a 53-acre parcel that is adjacent to BCWMA's western boundary. This exchange is necessary for MDT's project to widen and realign the right-of-way for Highway 83 between Clearwater Junction and the town of Seeley Lake. If implemented, this action would be in lieu of monetary payment from MDT to FWP for right-of-way acquisition across the WMA for MDT's Clearwater Junction-North project.

#### **ALTERNATIVES TO THE PROPOSED PROJECT**

1. No Action--If the No Action alternative were approved, no property exchange would occur between FWP and MDT. In the near term there would be no disturbances to BCWMA. MDT may redesign their plans for the highway corridor's improvement or they may invoke their power of condemnation for matters of ensuring public safety. If the right of condemnation were implemented, FWP would only have the option of receiving monetary compensation for the needed right-of-way on the Blackfoot-Clearwater WMA, instead of receiving replacement land that serves a similar function or value. The amount of compensation would be negotiated, based on the appraised value of 19 acres. The 53-acre parcel would likely sell on the open market and be developed for residential use. This would impede wildlife movement to and from the WMA, convert valuable ungulate winter range, and create anthropogenic attractants that would threaten the area's bears and other wildlife.
2. Other Alternatives Considered but Eliminated from Further Analysis--During 2002, FWP and MDT considered the construction of wildlife overpass as a way to mitigate the impacts to BCWMA for the highway corridor improvements. As with the current

proposal by MDT, the improvements were necessary to decrease the wildlife-vehicle collisions between mile markers 4.1 and 4.5 and to improve public safety in this section of Highway 83. At that time, the cost of the overpass was estimated at \$1.6 million and the proposed mitigation plan was agreeable to both parties. Since that initial agreement, overpass construction costs have increased to a projected \$6-8 million, which has now made the overpass mitigation option too expensive and unfeasible.

## **PUBLIC PROCESS AND COMMENTS**

FWP is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of a proposed action to the human and physical environment. In compliance with MEPA, a Draft Environmental Assessment (EA) was completed for the proposed project by FWP and released for public comment on November 4, 2009.

Public comments on the proposed action were taken for 16 days (through 5 p.m. on November 19, 2009). Legal notices were printed twice each in the *Helena Independent Record*, *Missoulian*, and *Seeley-Swan Pathfinder* newspapers. The EA was also posted on the FWP webpage <http://fwp.mt.gov/publicnotices/> beginning October 4. A public meeting was held on November 9, 2009 at the Seeley Lake Ranger Station as an opportunity for interested parties to learn about and ask questions about the project. Copies of the EA or postcard notification of its availability were mailed to interested parties and adjacent landowners.

Below is a summary of the comments and questions received and FWP responses to the feedback:

Three people attended the public meeting. Dwight Jenkins attended as both the editor of the *Pathfinder* and as a concerned resident. He personally expressed strong support for the project as proposed. Craig and Lynette Ronzone also attended. The Ronzones own a home very near to the proposed project area and support the exchange. They had additional specific concerns about the ultimate design and engineering of the Highway 83 right-of-way but understood that these issues were unrelated to and beyond the scope of this proposal. FWP referred them to the appropriate contact within MDT.

FWP also received four written comment letters. Missoula County Rural Initiatives submitted a letter fully supporting the proposal, as did Mr. B. Otis of Emigrant, MT. The Ronzones also submitted a letter supporting the proposed land exchange, but again raised concerns about MDT's engineering plans and highway access points north of the project area. Finally, Stephan and Martha Wolfinger, landowners very near the project area, submitted a letter that did not address the proposed project but rather expressed concerns about MDT's plans for considering highway access north of the project area and the effect that may have on a proposed private bridge across the Clearwater.

*FWP response: FWP recognizes the Ronzone's and the Wolfinger's specific concerns with MDT's future decision/ability to grant or preclude additional highway access along the existing Riverwatch Subdivision. However, that issue is beyond the scope of, and unaffected*

*by, this current proposal. All other comments received were supportive of this land exchange project as proposed.*

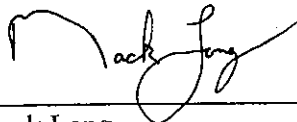
## DECISION

Based on the Environmental Assessment (EA) and the applicable laws, regulations and policies, I have determined that this action will not have a significant effect on the human and physical environments associated with this project. Therefore, I conclude that the Environmental Assessment is the appropriate level of analysis, and that an Environmental Impact Statement is not required. By notification of this Decision Notice, the Draft EA is hereby made the Final EA with the FWP responses in this DN.

If selected, the No-Action alternative would not prevent the MDT road-widening and realignment project from occurring in the future. Under the No-Action alternative, the MDT project would likely result in a loss of wildlife habitat in the amount of up to 19 acres, as under the proposed project, but with no assurance that any appropriate property would be available in the future to replace that loss. Conversely, the proposed project would secure replacement habitat now, and in so doing would avoid the additional likely impact of residential development on that replacement habitat (i.e., the loss of 53 acres in addition to the 19 acres) in the coming months or years.

The 53-acre replacement parcel that FWP would acquire as a result of this proposal is nearly ideal for the purpose of mitigating the minor effects of right-of-way conveyance to MDT. The replacement parcel is located close by the 19 acres, and is used by the same wildlife species and individual animals. Its habitat and relative size offer natural foraging and resting areas for a diversity of species. Its juxtaposition on the landscape opens a broader landscape to the continued movement and migration of wildlife. The prevention of development on this parcel would contribute to the safe passage of a majority of individual animals across the highway by avoiding human influences that might tend to spook animals across the road or artificially confine or attract them in ways that increase collisions with vehicles. In addition, FWP's acquisition of these 53 acres would add exceptionally valuable habitat to the BCWMA—in the form of 1,800 feet of Clearwater River frontage.

In consideration of these facts, I am pleased to recommend that the Fish, Wildlife and Parks Commission approve the proposed exchange of lands between FWP and MDT.



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Mack Long  
Region 2 Supervisor  
Montana Fish, Wildlife & Parks

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November 23, 2009  
Date

***Draft Environmental Assessment***

**Mitigation Plan for  
MT Highway 83 Right-of-Way Conveyance  
on the  
Blackfoot-Clearwater Wildlife Management Area**

**November 2009**

**Prepared by**

**Montana Fish, Wildlife and Parks  
Helena, Montana**

**and the**

**U.S. Fish and Wildlife Service  
Division of Wildlife and Sportfish Restoration  
Denver, Colorado**



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## **PURPOSE AND NEED FOR ACTION**

Montana Fish, Wildlife, and Parks (FWP) proposes to exchange approximately 19-acres on the Blackfoot-Clearwater Wildlife Management Area (BCWMA) along the corridor of State Highway 83 in Missoula County to Montana Department of Transportation (MDT) for a 53-acre parcel that is adjacent to BCWMA's western boundary. This exchange is necessary for MDT's project to widen and realign the right-of-way for Highway 83 between Clearwater Junction and Seeley Lake. If implemented, this action would be in lieu of monetary payment from MDT to FWP for right-of-way acquisition across the WMA for MDT's Clearwater Junction-North project.

This project originally initiated in 2001, when MDT first described its need to correct unsafe, substandard curves, and widen a 13-mile portion of Highway 83 beginning at Clearwater Junction north to Seeley Lake. MDT plans to relocate the highway centerline as much as 25 feet to realign curves, improve line-of-sight distances, and provide sufficient road widths for bicycle traffic on the shoulders of the highway. Realignment along the entire corridor would affect FWP property on the Blackfoot-Clearwater WMA at eight specific points.

MDT's need for more right-of-way in the section between miles 4.1 and 4.5 raised several issues that are unique to that site, and required cooperation with FWP. The site is part of the critical winter range for several hundred white-tailed deer, many of which migrate from summer ranges in the upper Clearwater River drainage. Deer routinely cross the highway to the river and back to the WMA as part of their daily or weekly patterns. The site also lies in a migration corridor many of the area's 1,200 elk annually use to travel from summer ranges west of Highway 83 east to the BCWMA. Many other wildlife species were documented crossing this stretch of Highway 83, either routinely or as part of seasonal movements.

Many tons of soil and rock would have to be removed from the WMA to bring the new right-of-way to highway grade, due to the steep slope along the east side of the existing highway along this stretch. This would remove considerably more surface area of important wildlife habitat than implied by the horizontal distance of the cut because of the sloping nature of the land. In addition, by cutting the new right-of-way down to meet the highway, an impassible cut-slope would be created on the east side of the new highway location, which would cause deer that cross from the west to congregate longer on the highway. To alleviate this, the cut-slope would have to be "laid back" to establish a more gentle grade to accommodate wildlife passage, which in turn would require the removal of even more material and more winter habitat. Although the finished highway would be less winding, it would probably promote higher traffic speeds through the area, and according to MDT would support an anticipated 93% increase in traffic volumes over the next 20 years. Due to higher speeds and more traffic over time, the highway itself would likely become a more serious barrier and hazard not only to wintering deer, but also to associated predators and scavengers, and to wide-ranging species such as elk, black bear, grizzly bear and gray wolf that naturally drift through this area while following topography and drainage features at the landscape scale.

Thus, MDT and FWP both recognized that the impact to the BCWMA extended beyond just the 19 acres directly impacted by the proposed realignment. In 2008, a 53-acre parcel directly southwest of the mile marker 4.1-4.5 stretch, and contiguous with the BCWMA, was placed on

the market by a private party as a potential subdivision. This parcel consists of native fescue prairie and ponderosa pine parkland--high quality ungulate winter range. In addition, it included 1,800 feet of Clearwater River frontage at the point most migrating elk and deer use to travel between summer ranges to the west and the main unit of the BCWMA. If the parcel sold on the private market it would almost certainly have been developed for residential use, causing long-term and significant impacts to the function of the adjacent WMA. MDT proposed to purchase the tract and transfer it to FWP to replace the 19 acres of current FWP land that will be impacted by the realignment project and to mitigate for impacts the project will have on the area's wildlife habitat values. This property exchange would eliminate the possibility that MDT would invoke their right of condemnation for the 19 acres. (See Alternatives for addition discussion.)

#### Legal descriptions and Location of Properties

##### **BCWMA--FWP Owned Property and Originally Purchased with Wildlife Restoration Funds**

Missoula County, Montana

Legal Description: T15N, R14W

Area #1 – Section 4 Lot 2 & Section 33 SW1/4, SE1/4 (0.78 acres)

Area #2 – Section 21 SW1/4, SW1/4 & Section 28 NE1/4, NW1/4  
(1.35 acres)

Area #3 – Section 21, SW1/4, NW1/4 & NW1/4, NW1/4 (4.95 acres)

Total: 7.08 acres currently specified on MDT design plans

\*\* Current finalized design plans only define first portion of MDT's project. Best estimates for other locations for the second portion are:

Area #4 – Section 17, NW1/4, NE1/4 & NE1/4, NE1/4 (0.75 acres)

Area #5 – Section 9, Lot 3 (0.675 acres)

Area #6 – Section 9, Lot 2 (0.895 acres)

Area #7 - Section 4, Lot 5 & Section 5, Lots 1, 5 and 6 & Section 32, Lot 4 (8.14 acres)

Area #8 – Section 5, Lot 2 & Section 32, Lot 4 (1.12 acres)

Total: 11.58 acres

Grand total estimated acres to be affected by proposed action: 18.66

See *Appendix A* for a location map of the affected areas

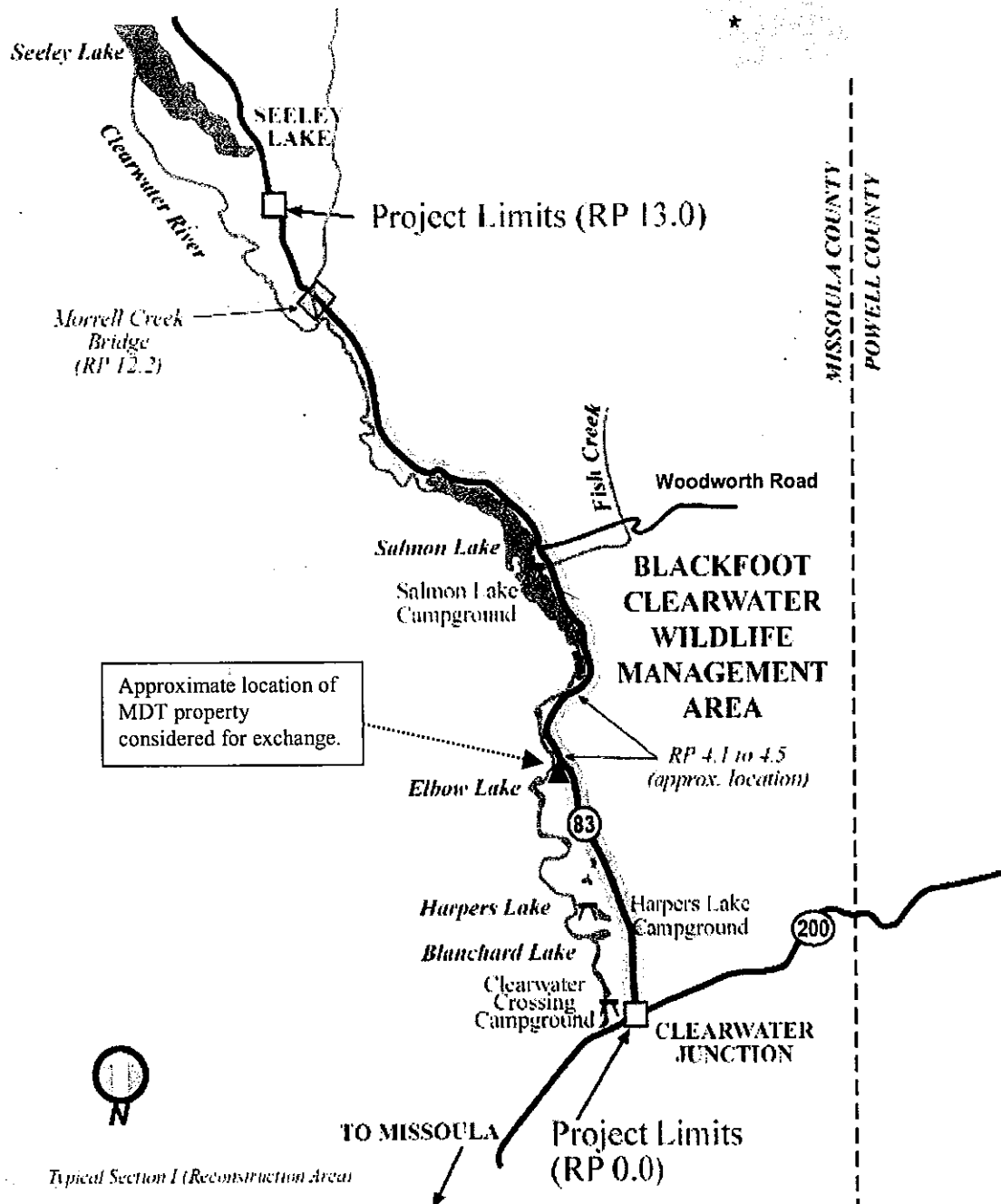
##### **MDT-Owned Property proposed for acquisition by FWP**

Missoula County, Montana

Legal Description: SE ¼ S17, T15N, R14W, Tract B COS 05922

Total: 52.73 acres

See *Appendix B* for a location map



## **AUTHORITY AND REGULATIONS**

### **1. FWP**

Montana Fish, Wildlife & Parks (FWP) purchased the Blackfoot-Clearwater Wildlife Management Area (WMA) in 1948, under the authority granted in 87-1-209 MCA. This statute also authorizes FWP to “develop, operate, and maintain acquired lands or waters.” FWP’s authority to manage its lands is subject to rules that may be adopted by the Fish, Wildlife & Parks Commission, as described in 87-1-301 MCA.

The WMA was originally purchased with revenues from sales of Montana hunting licenses, and with Federal Aid in Wildlife Restoration monies (Project W-30-L) under Montana’s assent to the federal Pittman-Robertson Act (87-1-709 MCA). Lands directly subject to this proposal were purchased by FWP in 1999 and 2000 from Plum Creek Timber Company with funding enabled by an act of the 1987 Montana Legislature (87-1-241-242 MCA) known as House Bill 526, which earmarked for habitat acquisition a set portion of the revenues generated from sales of Montana Sportsmen’s and nonresident Big Game Combination licenses. Management of these lands is subject to guidance provided by the US Fish and Wildlife Service (USFWS) under 87-1-710 MCA, which states that a condition of Montana’s assent to the federal Pittman-Robertson Act is that “no license fees paid by hunters in the state of Montana shall be used or taken for any other purpose than the administration and use of the department.”

FWP revised its management plan for the Blackfoot-Clearwater WMA in 1989 (dated August 31, 1989). Objectives in the plan are to “manage for the maximum sustainable utilization of the winter range by elk, mule deer and white-tailed deer, with primary emphasis on elk . . .” (within specified environmental and social standards); and to “maximize public access and recreation opportunities [such that] other WMA objectives will not be compromised [and] diverse opportunities for appreciation and enjoyment by the public will be maintained.”

FWP may convey an interest in lands it has acquired, if consent is given by the Montana Fish, Wildlife & Parks Commission (87-1-209 MCA). FWP, with the consent of the Commission, may convey lands in its ownership to “other governmental entities” without public notice “if the land is less than 10 acres or the full market value of the interest to be conveyed is less than \$20,000” (87-1-209 MCA). This exchange will also require the approval of the Montana Land Board.

### **2. US Fish and Wildlife Service**

FWP originally purchased the BCWMA in part with Federal Aid in Wildlife Restoration monies (Project W-30-L) that are administered by the US Fish and Wildlife Service. FWP’s acceptance of Federal Aid requires the USFWS to oversee proper use of state hunting license dollars under the Pittman-Robertson Act. The lands specifically subject to this proposal were purchased with Federal Aid. FWP has consulted the USFWS on this proposal and received concurrence that the proposed action would adequately replace habitat lost to highway right-of-way acquisition, and would ensure the WMA continues to achieve its intended purpose.

The proposed removal of the Federal interest in the BCWMA tracts constitutes a federal action subject to the provisions of the National Environmental Policy Act of 1969, as amended. USFWS is therefore required to prepare an Environmental Assessment to analyze the effects on

the human environment and document the findings. USFWS will use this Environmental Assessment to determine if the proposed action is likely to result in significant impacts to the human environment. If it is determined that there are no significant adverse impacts, USFWS will issue a Finding of No Significant Impact (FONSI). If it is determined, conversely, that significant impacts might occur, the Service would be required to prepare an Environmental Impact Statement (EIS).

## **ALTERNATIVES**

### **1. Proposed Action**

FWP proposed to exchange approximately 19-acres of the Blackfoot-Clearwater Wildlife Management Area (BCWMA) for 53 acres of Montana Department of Transportation (MDT) owned property to mitigate the wildlife and resource impacts to BCWMA by MDT's project to improve public safety on Highway 83 south of Seeley Lake MT.

The intent of MDT's project is to widen the highway to provide for a wider shoulder that would improve safety and accommodate bicycle traffic. Additionally, MDT's project seeks to improve line-of-sight distances for a number of sections. Their efforts would include the realignment of the highway, which would require new cut and fill slopes along critical sections that will infringe on the WMA.

The property offered by MDT to mitigate resource impacts to the BCWMA is on the west side of Highway 83 adjacent to the WMA. This property has no improvements on it. Habitat is comparable to the habitat found within the WMA (ponderosa pine parks and native grasslands) and would provide access to the Clearwater River and Elbow Lake.

### **2. No Action**

If the No Action alternative were approved, no property exchange would occur between FWP and MDT. For the near future there would be no disturbances to BCWMA. MDT may redesign their plans for the highway corridor's improvement or they may invoke their power of condemnation for matters of ensuring public safety. If the right of condemnation were implemented, FWP would only have the option of receiving monetary compensation for the needed right-of-way on the Blackfoot-Clearwater WMA instead of replacement land that serves a similar function or value. The amount of compensation would be negotiated, based on the appraised value of 19 acres. The 53-acre parcel would likely sell on the open market and be developed for residential use. This would impede wildlife movement to and from the WMA, convert valuable winter range, and create anthropogenic attractants that would threaten the area's bears and other wildlife.

### **3. Other Alternatives Considered but Eliminated from Further Analysis**

During 2002, FWP and MDT considered the construction of wildlife overpass as a way to mitigate the impacts to BCWMA for the highway corridor improvements. As with the current proposal by MDT, the improvements were necessary to decrease the wildlife-vehicle collisions between mile markers 4.1 and 4.5 and to improve public safety in this section of Highway 83. At that time, the cost of the overpass was estimated at \$1.6 million and the proposed mitigation

plan was agreeable to both parties. Since that initial agreement, overpass construction costs have increased to a projected \$6-8 million, which has now made the overpass mitigation option too expensive and unfeasible.

Without the overpass, wildlife are expected to continue to cross the highway corridor at mile marker 4.3, and wildlife-vehicle collisions would continue at the present rate. Over time, wildlife-vehicle collisions are expected to increase, due to increased average traffic speed after the corner is straightened, and due to the predicted 93% increase in traffic volume over the next 20 years.

## **AFFECTED ENVIRONMENT**

The Blackfoot-Clearwater WMA comprises about 65,015 acres in Missoula and Powell counties, with 16,785 acres (26%) in fee-title ownership and the remaining 48,230 acres (74%) included under leases with other state and private landowners or managed under conservation easements held by FWP. It is located near the junction of State Highways 200 and 83 (Clearwater Junction), about 45 miles east of Missoula, Montana. Most WMA lands, as well as those directly subject to this proposal, are located north of Highway 200 within 7 miles of Clearwater Junction. Seeley Lake is the nearest community on Highway 83 (located about 6 miles north of the WMA). Ovando is the nearest community on Highway 200 (located about 6 miles east of the WMA). The wood products, ranching, and recreation/tourism industries support the local economy.

The WMA is situated at the convergence of the Clearwater River and Blackfoot River watersheds, within 2 miles of the rivers confluence. The principal topographic feature of the WMA is Boyd Mountain, which at a peak elevation of 5,625 feet provides a low-lying landform connection with the Swan Range and Bob Marshall Wilderness Area (7 miles north of the WMA), Mission Range and Mission Mountain Wilderness (15 miles northwest of the WMA), and Garnet Range (2 miles south of the WMA). Due to this unique position on the landscape, numerous migratory wildlife species are naturally attracted to the WMA in seasonally high abundance.

### **1. PHYSICAL RESOURCES**

#### **a. Soil and Prime/ Unique Farmland**

BCWMA: None of the FWP-owned lands subject to this proposal include Prime or Unique Farmlands based on information from the US Department of Agriculture's Soil Survey Database. Soil types include: gravelly silt loams, rock outcrop complex, gravelly loams, and rubble land complexes.

Area #1 – (0.78 ac.) All Farmland of Statewide Importance

Area #2 – (1.35 ac.) Predominately Farmland of Statewide Importance, small area of Not Prime Farmland

Area #3 – (4.95 ac.) All Farmland of Statewide Importance

Area #4 – (0.75 ac.) Not Prime Farmland

Area #5 – (0.675 ac.) Not Prime Farmland

Area #6 – (0.895 ac.) Not Prime Farmland

Area #7 – (8.14 ac.) Not Prime Farmland

Area #8 – (1.12 ac.) Predominately Not Prime Farmland, small acre of Farmland of Statewide Importance

MDT-Owned Property: This property does not include any Prime or Unique Farmlands. The majority of the acres are designed as either Farmland of Statewide Importance or Farmland of Local Importance. The soil type for the entire property is gravel loam with slopes of 0-30%.

b. Water Resources

BCWMA: There are no water resources associated with the BCWMA sites identified for the proposed action.

MDT-Owned Property: This property has water rights for a 165' well suitable for domestic use. Additionally, this property includes access to 1,800 feet of river frontage to the Clearwater River, a 0.5-acre pond, and Elbow Lake. This property is not located on a floodplain nor does it include any designated wetlands per USFWS Wetlands database.

## 2. BIOLOGICAL RESOURCES

a. Vegetation

BCWMA: The subject lands owned by FWP are located on the eastern edge of Highway 83, generally between mile markers 4 and 5. Topography is steeply sloping and generally west facing, with closely interspersed natural benches and small rock-outcroppings. Benches are broader and slopes gradually moderate on the west side of Highway 83, leading 40-160 feet in elevation from the highway to the Clearwater River. Lands on the west side of the highway are part of River Watch Subdivision, a 15-lot subdivision on 50 acres (including a 21-acre "common area"). The area east and west of Highway 83 is forested primarily with Douglas-fir and ponderosa pine. Understory vegetation is grass/shrub, primarily rough fescue, elk sedge, and serviceberry.

Currently, FWP controls noxious weeds on the WMA through mechanical and chemical means per the guidelines of FWP's 2008 Integrated Noxious Weed Management Plan.

### Montana Species of Concern

A search of the Montana Natural Heritage Program (MNHP) database disclosed four plant species of concern records on or near the FWP project area.

Species	
<i>Bidens beckii</i>	Beck Water-marigold
<i>Castilleja cervina</i>	Deer Indian Paintbrush
<i>Grindelia howellii</i>	Howell's Gumweed
<i>Nymphaea tetragona</i>	Pygmy Waterlily

MDT-Owned Property: Existing vegetation on the property is a mix of conifers, open grasslands, and riparian shrubs along the Clearwater River. There are no known sensitive species on the property.



b. Wildlife

Annually, between 1,000 and 1,400 elk winter on the BCWMA. In addition, FWP estimates as many as 800 mule deer and 600 white-tailed deer use the area all or part of the year. Data collected from radio-collared animals in the late 1980s and early 1990s indicate that most elk and mule deer in the Clearwater watershed migrate annually to the 35-mi<sup>2</sup> WMA winter range near Clearwater Junction from an expansive summer-fall range of 750-mi<sup>2</sup> that includes the southwest corner of the Bob Marshall Wilderness and southeast corner of the Mission Mountain Wilderness. About half of the sample of radio-collared white-tailed deer migrated up to 25 miles from summer ranges in the upper Clearwater River and middle Monture Creek drainages, and the other half were generally resident on and near the WMA.

The Blackfoot-Clearwater area is winter habitat for 20-40 bald eagles. Likewise, it is nesting habitat for several bald eagle pairs that winter in the lower Columbia basin. Grizzly bears are commonly observed on the BCWMA; the area is especially heavily used by grizzlies immediately post-emergence and during fall. Wolves are also routinely seen on the property and established packs occur both immediately east and west of the property. Canada lynx, wolverine, and marten occur on the WMA, as do black bears, moose, mountain lions, and 200 other documented wildlife species.

The FWP and MDT lands subject to this proposal lie within the principal winter concentration area for white-tailed deer on the WMA; it is important for white-tailed deer in mid-late winter as snow depths increase. Elk and mule deer routinely also occupy or cross the highway between the 4 and 5 mile markers. Predators and scavengers associated with wintering white-tailed deer concentrate in this area, including coyote, bald eagle, raven, mountain lion, and gray wolf. Lands within the WMA that are located generally east of Highway 83 and south of Woodworth Road (owned by FWP and the Montana Department of Natural Resources and Conservation) are closed to all public entry from November 11 to May 14 annually to provide elk and deer with undisturbed winter habitat.

Thirty-three mammalian species have been documented on or adjacent to the BCWMA. The Montana Bird Distribution Committee (MBDC, 1996) has compiled observations of 163 different bird species within the quarter latilong containing the project lands from 1991 to 1995.

Endangered, Threatened, or Candidate and State Sensitive Species

The Listed Endangered, Threatened, Proposed and Candidate Species in Missoula County as determined by the Montana Ecological Services Field Office are as follows:

MISSOULA COUNTY		
<i>Lynx canadensis</i>	Canada Lynx	LT, PCH
<i>Ursus arctos horribilis</i>	Grizzly Bear	LT
<i>Salvelinus confluentus</i>	Bull Trout	LT, CH
<i>Coccyzus americanus</i>	Yellow-billed cuckoo	C
<i>Howellia aquatilis</i>	Water Howellia	LT

Grizzly Bear--Grizzlies routinely use the project area and have been observed crossing Highway 83 on or near lands affected by this proposal and in adjacent residential subdivisions.

Canada Lynx--Recent research data suggest the area immediately north of Seeley Lake and this project may support the highest density of lynx in Montana. Telemetry data from that research project and FWP track surveys have both confirmed limited lynx use of the north and east portions of the BCWMA.

Bull Trout--Bull trout are known to occur as common residents and spawners throughout streams and lakes in the Clearwater and Blackfoot watersheds. Migrant adults occur in Salmon Lake and the Clearwater River and bull trout are routinely found in Cottonwood Creek on the BCWMA. The Clearwater River above Rainy Lake and Morrell Creek are both considered core areas for bull trout in the Blackfoot drainage, while the Clearwater River in the project area and Salmon Lake are both listed as nodal habitats.

Water Howellia--The current Montana distribution of this species is thought to be restricted to the Swan River Valley, north of the project area. Though extensive surveys have been conducted in the Clearwater drainage over the years by various agencies, water howellia has never been documented south of the Swan/Clearwater divide. Additionally, no primary potential habitat for this species would be affected by the proposed project.

#### Montana Species of Concern

A search of the Montana Natural Heritage Program (MNHP) database disclosed ten species of concern record near the project area.

Species	
<i>Gulo gulo</i>	Wolverine
<i>Lynx canadensis</i>	Canada Lynx
<i>Martes pennanti</i>	Fisher
<i>Gavia immer</i>	Common loon
<i>Haliaeetus leucocephalus</i>	Bald eagle
<i>Otus flammeolus</i>	Flammulated owl
<i>Picoides arcticus</i>	Black-backed woodpecker
<i>Oncorhynchus clarki lewisi</i>	Westslope cutthroat trout
<i>Salvelinus confluentus</i>	Bull Trout

### **3. SOCIO-ECONOMIC RESOURCES**

#### **a. Historical and Cultural**

BCWMA: In 1989, a cultural resource inventory of affected lands was completed at the request of MDT in preparation of this realignment project. The survey identified only one site, a rock cairn, within the WMA's boundary but outside the MDT's project area.

No other historic or cultural sites are known to occur within the WMA's lands potentially impacted by this proposal. However, MDT does plan to complete another survey prior to any

groundbreaking activities to ensure sensitive sites are not disturbed by their highway improvement project and the results of that survey will be submitted to the Montana's State Historic Preservation Office.

MDT-Owned Property: There are no known cultural or historic resources associated with this parcel based on a file search completed by Montana's State Historic Preservation Office.

b. Aesthetics and Recreation

BCWMA: Portions of this WMA within deer/elk hunting district 282 are open to the public from May 15<sup>th</sup> through November 10<sup>th</sup> for a variety of recreational opportunities that include hiking, wildlife viewing, horseback riding, photography, mountain biking, picnicking, and hunting. Hunting opportunities include black bear, waterfowl, elk, and white-tailed and mule deer. The BCWMA is closed during the winter to protect elk and deer during the critical winter season.

The BCWMA encompasses over 65,000 acres of forested mountains and grassland valleys. The portions of the WMA that are identified in this EA to be exchanged are in close proximity to Highway 83 and are not considered prime recreational or hunting areas.

MDT-Owned Property: This property is part of deer/elk hunting district 285 but public recreational access to the property has been restricted in the past. As previously noted, this parcel does have access to the Clearwater River, Elbow Lake, and a small pond. There is an established gravel road to the interior of property from Highway 83. If acquired by FWP through this proposal, the parcel would be managed as part of the BCWMA and open year-round to public recreational access.

#### **4. RESOURCE ISSUES CONSIDERED BUT ELIMINATED FROM DETAILED ANALYSIS**

The Montana Environmental Policy Act (MEPA) provides for the identification and elimination from detailed study of issues which are not significant or which have been covered by a prior environmental review, narrowing the discussion of these issues to a brief presentation of why they will not have a significant effect on the physical or human environment or providing a reference to their coverage elsewhere (ARM 12.2.434(d)). While these resources are important, they were either unaffected or mildly affected by the proposed action or the affects could be adequately mitigated.

a. Air Quality

Construction activities may result in minor and temporary deterioration to air quality in the immediate area.

b. Noise

Construction activities will likely result in temporary negative impacts to the ambient noise level in the immediate area of the highway realignment and construction. Nearby wildlife species are expected to move away from the construction area for quieter areas, but most resident wildlife are already accustomed to the normal highway noises.

c. Fisheries

There are no fish species associated with the BCWMA acres identified for the exchange. The MDT owned property does provide access to the Clearwater River and Elbow Lake, both of which both provide habitats for native and non-native species. The Clearwater River supports bluegill, brook trout, brown trout, bull trout, kokanee salmon, largemouth bass, largescale sucker, longnose dace, longnose sucker, mottled sculpin, mountain whitefish, northern pike, northern pike minnow, peamouth, pumpkinseed, pygmy whitefish, rainbow trout, redbside shiner, sculpin, westslope cutthroat trout, and yellow perch. Species present in Elbow Lake include brook trout, cutthroat trout, kokanee salmon, largescale sucker, longnose sucker, northern pike, northern pike minnow, pumpkinseed, rainbow trout, and yellow perch.

Angling pressure along the Clearwater River and at Elbow Lake are considered fairly light. State rankings for each location reported in the 2007 Montana Statewide Angling Pressure Report are 192 and 720 respectively. FWP does not anticipate the angling pressure on the bodies of water to measurably increase because no shoreline improvements to increase access at the 53-acre property are planned if the proposed exchange is approved.

d. Community

The Blackfoot-Clearwater Wildlife Management Area (BCWMA) is located near the intersection of State Highways 83 and 200 in Missoula and Powell Counties, Montana. The closest town to the WMA is Seeley Lake, which is 13-miles north of the highway junction and 4-miles north of the WMA's boundary. Highway 83 is one of the main north-south arteries west of the Rocky Mountain front, from its start at the junction with Highway 200 to 105-miles north to the city of Kalispell. Highway 83 travels past numerous lakes, a state park, and the small hamlets of Swan Lake, Condon, and Ferndale.

Minor impacts to the movements of traffic and commerce along Highway 83 are expected if the exchange were approved. With the approval, MDT will likely begin implementation of their realignment plans, which could cause traffic delays and inconveniences for the duration of the improvements.

e. Taxes and Public Services

If the exchange were approved per state statute 87-1-603, FWP would pay Missoula County a sum equal to the amount of taxes, which would be payable on county assessment of the property were it taxable to a private citizen. The change of ownership of these parcels would not affect the property tax revenue submitted to the county.

Under FWP ownership, the proposed additions to the WMA would be subject the management strategies implemented on the rest of the WMA, which prohibits the construction of buildings on the WMA in order preserve the viewshed, wetlands, and wildlife habitat.

## **ENVIRONMENTAL CONSEQUENCES**

In addition to the preparation of this environmental assessment by FWP, MDT is required complete their own project evaluation to meet the requirements for use of Federal Highway Administration funds. Their assessment would describe the mitigation measures MDT intends to implement to decrease resource impacts in the areas affected by the highway improvements.

### **1. Soil and Prime/ Unique Farmland**

#### **Proposed Action**

BCWMA: Soils originally part of the BCWMA would likely be removed or manipulated by MDT for the realignment of portions of Highway 83. MDT would follow prescribed design and construction requirements to ensure the public's safety while traveling through the Clearwater Junction – Seeley Lake corridor. These acres will most certainly be lost for wildlife habitat and agricultural uses.

MDT-Owned Property: The 53 acres will be managed by FWP as part of the Blackfoot-Clearwater Wildlife Management Area (BCWMA) and will be maintained to provide winter range for primarily elk, and for white-tailed and mule deer. No soil disturbing activities are planned and the only access to the property would be via the existing road from Highway 83.

#### **No Action**

MDT's proposed realignment project of Highway 83 will likely occur sometime in the future. Under this alternative, it is assumed that MDT has used their authority of condemnation to proceed with the highway project. Soil disturbing activities will dramatically affect the acres within the highway's right-of-way. Small portions of the WMA immediately adjacent to the highway will be moved or placed under the path of the new highway and will be lost to wildlife habitat and forage. Within the targeted spots of the WMA, there are no acres designated as Prime/Unique Farmland.

FWP would receive monetary compensation for the value of the WMA acres and the loss of associated resource values. Such funds would be returned to USFWS per the terms of the Pittman-Robertson Wildlife Restoration Program.

### **2. Water Resources**

#### **Proposed Action**

BCWMA: There are no water resources associated with the BCWMA sites identified for the proposed property exchange.

MDT-Owned Property: Under the guidance of the BCWMA Management Plan, the public would gain access to the Clearwater River, Elbow Lake, and pond areas that were previously in private ownership and mostly inaccessible. The public would be able to access those bodies of water on foot. No new roads are to be built to those areas in order to preserve the habitat resources. There are no plans to use the well at this time.

### No Action

No water resources would be impacted if this alternative were chosen, because there are no water resources associated with the WMA acres identified within MDT's highway improvement project. However, should the MDT parcel be sold and developed, resulting septic systems and bank alterations associated with residential development could affect water quality along the Clearwater River or Elbow Lake.

## **3. Vegetation**

### Proposed Action

BCWMA: Vegetation, including mature conifers, within the targeted areas would be removed and likely covered over by gravel and other construction materials so that widening and realignment of the highway meeting required specifications.

MDT-Owned Property: If approved, FWP would implement noxious weed control measures through mechanical and chemical means per the guidelines of FWP's Integrated Noxious Weed Management Plan to maintain and improve the forage for wildlife species. Rough fescue native grasslands and ponderosa pine parks present on the property would be protected and enhanced.

### No Action

Under this alternative, MDT moves ahead with their highway project, which would require the removal and manipulation of vegetation within the highway right-of-way in order to accommodate the path of the realignment and widening of the road. Approximately nineteen acres of BCWMA would be directly affected and lost for wildlife habitat. The 53-acre MDT parcel would likely be developed for residential use and native vegetation would be lost or altered.

## **4. Wildlife**

### Proposed Action

BCWMA: Up to 18 acres of important white-tailed deer and elk winter range would be impacted by the realignment Highway 83; additional impacts to wildlife habitat and movements beyond the footprint of the project are also anticipated. Increased traffic volumes and speeds resulting from the project may increase wildlife-vehicle collisions over the next 50 years.

MDT-Owned Property: This 53-acre parcel would be transferred to FWP for perpetual management as part of the BCWMA and for the benefit of wildlife. This parcel contains important ungulate winter range and provides critical connectivity between the main unit of the BCWMA and important seasonal wildlife habitats to the west. Residential subdivision would be prohibited, native vegetation communities would be protected and enhanced, and public recreational access would be secured.

### No Action

BCWMA: MDT has the authority to condemn these properties and proceed with the highway realignment project should the proposed action not be adopted. Impacts to the area's wildlife resources would be similar to those under the Proposed Action.

MDT-Owned Property: This parcel would likely be sold and developed for residential use. Residential development of the property would alter and remove native grassland winter range and greatly diminish the parcel's value as a wildlife movement corridor. In addition, residential development would increase the presence of anthropogenic food attractants and thus increase the future risk of human-bear conflicts in the area.

## **5. Historical and Cultural**

### **Proposed Action**

Based on results of the cultural and historic resources survey completed in 1989, there are no sensitive sites with the WMA within the path of the highway's realignment or within the MDT owned property; thusly no impacts are anticipated to cultural and historic resources if the land exchange were approved.

### **No Action**

Under this alternative, the recorded rock cairn within the WMA will remain undisturbed even if MDT's highway plans were initiated.

## **6. Aesthetics and Recreation**

### **Proposed Action**

BCWMA: Public recreational users do not heavily use the WMA's identified parcels because of their close proximity to the highway. Similarly, the highway realignment project will not significantly affect the overall area's viewshed or other aesthetic values.

MDT-Owned Property: The property would be open to the public for hiking, hunting, wildlife viewing, and angling and managed under the guidance of the BCWMA Management Plan and other FWP policies. The open space viewshed would be maintained.

### **No Action**

BCWMA: MDT has the authority to condemn these parcels and proceed with the realignment project. Impacts to the current BCWMA parcels would be similar to those under the Proposed Action.

MDT-Owned Property: The parcel would likely be sold and developed for residential use. Recreational access to the property would be permanently prohibited and the open space viewshed along this scenic stretch of Highway 83 would be lost.

## **CUMULATIVE IMPACTS**

### **Proposed Action**

The action alternative provides a method to mitigate the impacts from the realignment of Highway 83 that is adjacent to FWP's Blackfoot-Clearwater Wildlife Management Area, which is an important winter range for elk, white-tailed deer, and mule deer. In addition to being locally critical wintering area for those species, the WMA provides a secure habitat and migration corridor for numerous other mammals and avian species, including grey wolves, grizzly bear, and lynx. The exchange of properties between FWP and MDT will balance the loss

of the WMA's impacted areas with a gain to the WMA of habitat between the highway and Clearwater River with equal resource values.

The improvements to Highway 83 will occur at some point in the future in order to improve public safety along a popular north-south route for tourists, local residents, and commerce. Migration of wildlife across the highway will continue with or without the highway improvements and vehicle-wildlife incidents will persist. Overall wildlife population diversity and densities on the WMA are not expected to dramatically fluctuate following the completion of the highway improvements because habitat (forage, nesting cover, etc.) values will be preserved.

As previously stated, the Highway Department's plans to correct line-of-sight issues and improve public safety of the highway calls for the realignment of the highway's centerline up to 25' in places, which will require the removal of vegetation and soils. Changes to vegetation and soil resources, especially in the realignment section where a portion of a hillside would be cut away, will be irretrievable once the highway improvements are completed. However, those impacts will be in small sections of the entire highway's length.

Direct and cumulative impacts to the MDT owned property are expected to be minimal if the proposed action is approved because FWP would preserve the existing wildlife and habitat values and the property would be managed as part of the BCWMA for the benefit of game and non-game species. Hunting would be allowed on the property, as well as other non-motorized recreation activities, but no public facilities would be developed within its boundaries.

Based on the above assessment that has not identified any significant negative impacts from the proposed action, an EIS is not required and an EA is the appropriate level of review.

#### No Action

If this alternative were chosen, direct impacts to the WMA's acres within the path of the highway's realignment path would be the same as under the Proposed Action Alternative. FWP would receive monetary compensation for the loss of the WMA's acres, but habitat resources (forage, cover, and migration paths) associated with those acres would be lost to wildlife.

If MDT's prediction of a 93% increase of traffic along Highway 83 over the next 20-years is correct, there is likely to be an increase in vehicle-wildlife collisions even with line-of-sight improvements.

#### **PUBLIC PARTICIPATION**

MDT and FWP actively solicited public comment on the original highway realignment project and mitigation proposal in the Seeley Lake area during an informal scoping period that was initiated with a newsletter that appeared in the *Seeley-Swan Pathfinder* newspaper on March 7, 2002. MDT also mailed individual newsletters to potentially affected individuals and organizations in the project area. This initial scoping effort attracted 28 written replies. A second opportunity for public input in advance of this draft EA was offered in the form of a public meeting and open house on July 31, 2002 at the Seeley Lake Elementary School. Roughly 70 people attended, and an additional 22 written replies were generated. In addition, FWP



contributed 2 informational articles on the subject in its weekly column in the *Seeley-Swan Pathfinder*. Copies of the newsletter, newspaper articles, written responses from the public, and a transcript of the public meeting are available upon request.

Numerous thoughtful and helpful issues and concerns were raised. Both MDT and FWP have reviewed all comments that were received. FWP's decision authority in this matter is much narrower than the scope of the comments received. MDT will consider how to incorporate issues that were raised about aesthetics, safety, and engineering into the design of the entire Clearwater Junction-North project.

The current proposed action is different than that originally scoped in 2002. At that time, mitigation for impacts to existing BCWMA lands was to take the form of a wildlife overpass structure to be constructed at the time the highway project was implemented. Construction of the overpass structure is no longer feasible. Therefore, FWP and MDT are proposing to replace impacted FWP properties and mitigate expected impacts wildlife through the acquisition and protection of a 53-acre parcel directly adjacent to the BCWMA. That proposal is described and analyzed in this document.

The public will be notified in the following manners about opportunities to comment on this current EA, the proposed action and alternatives:

- Two public notices in each of these papers: *Missoulian*, *Independent Record* (Helena), and *Seeley Swan Pathfinder*;
- Public notice on the Fish, Wildlife & Parks web page: <http://fwp.mt.gov> ("Recent Public Notices"), and
- Copies of this environmental assessment will be distributed to the neighboring landowners and interested parties to ensure their knowledge of the proposed project.

A public meeting has been scheduled in Seeley Lake on November 9<sup>th</sup> (beginning at 7 p.m.) to coincide with the public comment period. The meeting will be held in the conference room at the Seeley Lake Ranger Station (located west of Highway 83 at mile marker 17).

The public comment period for state purposes will extend for (14) fourteen days from the date when the assessment is published by the FWP website. Written comments to this Draft Environmental Assessment will be accepted until 5 p.m. on November 19, 2009 and can be mailed to the following:

Blackfoot-Clearwater Mitigation Plan EA  
Montana Fish, Wildlife & Parks  
3201 Spurgin Rd.  
Missoula, MT 59804

Or emailed to [jkolbe@mt.gov](mailto:jkolbe@mt.gov)

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### **Appendices**

- A. Portions of the WMA Affected by the MDT Project
- B. Property Map of MDT-Owned Property